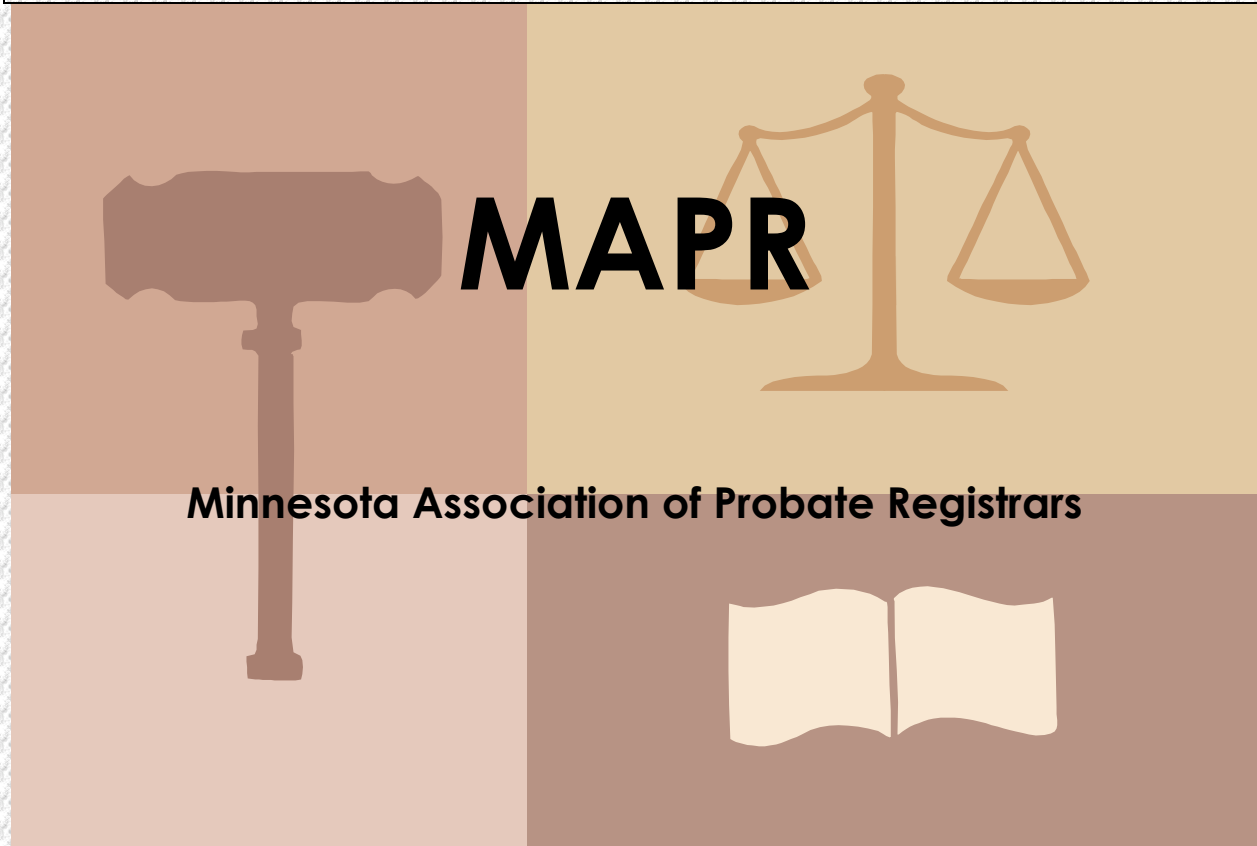


GUIDE TO INFORMAL PROBATE



The following information on informal/unsupervised probate is not intended to be a manual or a comprehensive instruction guide. It is intended to be a short and simple informational statement about basic forms and requirements. More complete information about informal and formal probate may be found in Minnesota Statutes, Chapters 524 and 525, Probate Court Rules, or from an attorney experienced in probate practice. It is YOUR responsibility to read and familiarize yourself with the information in this guide.

**PREPARED BY:
MINNESOTA ASSOCIATION
OF
PROBATE REGISTRARS**

TO HELP YOU UNDERSTAND INFORMAL PROBATE

Informal/unsupervised probate is only one of several procedural options available to settle the estate of a deceased person. Estates probated informally are before the Probate Registrar and are not supervised by Probate Court. Informal probate is designed for estates in which a court adjudication is not required nor court supervision needed, and only for estates without uncertainties, legal disputes, or complex administrative requirements. Estates with such problems are not suitable for informal probate, and the Registrar may decline an application for informal probate for failure to meet statutory requirements or if the estate is deemed to be unsuitable for informal probate. This does not preclude appointment in formal proceedings before the court.

The acceptance by the Registrar of an application for informal probate means only that the application meets statutory requirements, and does not constitute a recommendation of the informal procedure for that estate. The selection of informal probate or of an alternative procedural option is the responsibility of the attorney and/or the applicant.

With or without the advice of an attorney, the representative **IS PERSONALLY RESPONSIBLE** for probating the estate completely, correctly and according to statute, and to bring it to its prompt conclusion. Minnesota Statute 525.07 expressly prohibits the Judge, Registrar, or any employee of Probate Court from giving counsel or advice, or assisting with forms preparation. Thus, most personal representatives engage an attorney to handle the informal probate, though in some cases the personal representative may proceed alone or with only the partial assistance of an attorney.

The principal duties of the personal representative (hereafter P.R.) of a decedent's estate are to:

- Collect, inventory, and appraise the assets,
- Protect and preserve the assets,
- Pay the taxes and debts of the decedent and his/her estate, and
- Distribute the remaining assets to the proper parties according to law.

The preliminary steps for initiating informal probate proceedings are to:

- Determine whether or not the decedent made a will,
- Prepare a list of the names, ages and addresses of decedent's spouse, children, heirs, devisees and other interested persons,
- Compile a list of the probate and non-probate assets and approximate indebtedness of the decedent, and
- If, after completing the above steps, it is not clear whether the estate is suitable for probate, review the matter with your attorney or the Probate Registrar

Once you have determined that your situation is suitable for informal probate you must then **purchase and complete** the necessary forms. All forms must be completed by typing or printed legibly in **BLACK INK**.

To be appointed as P.R. of an estate a person must apply to the Probate Registrar. **You must contact Probate Registrar's Office of the county where you wish to file to see if you must make an appointment with the Registrar, or if you are able to mail the forms (see list of forms).** Please call the Registrar's office if you are unsure if there is the need to do a probate or if you have other procedural questions.

A file number will be assigned to the estate if the application is accepted, and must be indicated on all forms filed throughout the probate proceeding.

Most Probate Courts are unable to provide or sell forms. Forms may be purchased from companies found in the yellow pages of the telephone directory under "Business Forms and Systems." If you cannot find the forms in your community, they may be purchased from the following companies using the form numbers indicated. **The following list of companies is being provided to you as a courtesy. The Minnesota Association of Probate Registrars does not endorse any one company over another.**

Miller-Davis Office Products

Main Store and Office
9349 Penn Avenue South
Bloomington, MN 55420
(952) 888-7743
Monday-Friday 8:00-5:00
www.mdofficeproducts.com

Miller-Davis Company

310 4th Avenue South Suite 1100
Minneapolis MN 55415
800-752-4221
www.millerdavis.com

Kemske

P.O. Box 817
New Ulm, MN 56073
1-800-782-3532

Following is a list of the forms required by statute to probate an estate informally from appointment of the representative through the closing of the estate, and certain directions for their use. Additional forms may be desirable for some estates, as requested by the Registrar, or used optionally at the discretion of the attorney or P.R., and in some cases it may be necessary or wise to obtain a decree from the Court and close the estate in a formal manner.

Titles of the forms are in bold print, and the probate **form number** (useful to know when you purchase the forms) is set out in the column to the right of each form. Select forms carefully and do not purchase a form with a "similar" title.

FORMS THAT YOU ARE REQUIRED TO PREPARE UNLESS OTHERWISE NOTED

PROBATE FORMS

PROBATE FORM NUMBERS

Miller-Davis
Forms

Kemske
Forms

IF A DECEDENT LEFT A WILL (TESTATE):

- | | | |
|---|-------|-----|
| – Application for Informal Probate of Will and for Informal Appointment of Personal Representative: To start probating an estate, this Application form must be completed and then presented to the Registrar for screening and acceptance. There is a filing fee. You will need to check with each county individually as to their filing fee, as fees vary from county to county. The original of decedent's last will must be presented with the Application. | P-100 | 134 |
| – Renunciation of Right to Appointment or to Nominate: This form is required IF executor nominated in Will declines to serve. Filed together with Application. | P-006 | 125 |
| – Nomination of Personal Representative by Person Entitled to Priority: This form is required in some estates in order for a proposed P.R. to establish priority for appointment. Filed together with Application. | P-005 | 126 |
| – Acceptance of Appointment and Oath by Individual: This form must be completed, notarized, and filed with the Registrar. | P-001 | 201 |
| – Statement of Informal Probate of Will and Order of Informal Appointment of Executor: Some Registrars will prepare this form. You will need to check with the appropriate county to see if you need to provide this form or if they will provide the form. | P-110 | 139 |

NOTICE REQUIREMENTS:

- | | | |
|---|-------|-----|
| – Notice of Informal Probate of Will and Appointment of Personal Representative and Notice to Creditors: Once again, you should check with the appropriate county to see if you are required to provide this form. | P-120 | 143 |
|---|-------|-----|
- This notice must be published for two weeks in a legal newspaper. Contact should be made with the Registrar to see if they will arrange for the publication. If not, it is your responsibility.

- Applicant must also mail either a copy of the Notice or a newspaper clipping of the Notice to all interested persons.
- **Proof of Placing Order for Publication:** Some Registrars accept this form in lieu of the Affidavit of Publication prior to actual printing. The publisher signs this form at the time publication is arranged.

–OR–

- **Affidavit of Publication:** This form is provided by publisher upon completion of the time for publication.
- **Affidavit of Mailing Order or Notice of Hearing:** After mailing the Notice, this affidavit must be completed, notarized, and filed with the Registrar. A copy of what was mailed (the notice) must be attached to the affidavit.

P-015

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Notice to Creditors: Minnesota Statutes were amended in 1989 to provide for mailed notice to creditors. The personal representative must serve notice on all known and identified creditors by mailing a copy of the notice as published together with a supplementary notice requiring the creditor to present the claim within one month after the date of the service of the notice or be forever barred. This mailing is to be made within three months of the first publication. This notice does not have to be made to the creditors who have already filed a claim or to creditors who have already been paid.

Proof of this mailed service IS NOT required to be filed with the Registrar or with the court.

- **Notice to Spouse and Children:** This form is required to be filed in all estates where the decedent left a spouse or any children surviving. A copy of the form must be sent to the spouse and/or children of the decedent. Complete the Affidavit of Mailing at the end of the notice and file this form with the court.
- **Affidavit of Service of Notice to the Commissioner of Human Services:** This form must be completed and filed with the Probate Court if the decedent and/or their spouse received medical assistance or other assistance from any state or county agency. You must give notice of the probate to the MN Dept of Human Services by sending them the following forms:
 - Notice to Commissioner of Human Services
 - Notice of Informal Probate and Notice to Creditors

P-016

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99-M

99-M

Copies of what you mailed must be attached to the affidavit of service.

It is also required that you file the above affidavit of service if the decedent's **PROBATE** estate has real estate that is not going to be sold during the probate administration.

- **Letters Testamentary:** After all the above has been completed, the Registrar will issue Letters which authorize the P.R. to act. Certified copies of Letters may be purchased from the Court. These are proof of the P.R.'s appointment. **Caution:** P.R. may NOT sell, encumber, lease or distribute real estate for 30 days from date of issuance of their Letters, by statute. P-010 203

INTERIM AND CLOSING FORMS:

- **Inventory and Appraisal:** Within 6 months from appointment or 9 months from the date of death, P.R. must mail a copy to the surviving spouse, to all residuary distributees, and to interested persons or creditors who request it. The inventory must list all **probate** assets owned by the decedent, with reasonable detail, and indicate fair market value of each as of date of death, and the type and amount of any encumbrances thereon. Prepare this form as soon as possible after Letters issue to ensure an accurate date of death record. It is good practice to file the original of the Inventory with the Probate Court. P-600 228
- **Final Account:** Minnesota statute directs that there be a four-month period (starting from the date on the Notice) in which creditors may file claims against the estate. The P.R. should check with Probate Court during the probate administration and again at the end of the four-month period to see if any claims have been filed. P.R. should be careful to avoid incurring any personal liability for unpaid claims. P-605 263

After claims have been properly dealt with and the four months have elapsed, the P.R. must prepare the **final account** of decedent's assets, showing any increases or decreases in the assets, claims paid, expenses of

administration, and the balance of assets on hand for distribution. The P.R. **must** furnish a copy to every distributee in the estate whose interest is affected thereby. **NOTE:** The Registrar's office cannot assist in the preparation of this form.

After a copy of the final account has been provided to all appropriate parties, the P.R. may distribute the assets to the devisees in the estate.

- **Tax Returns:** The P.R. is responsible for preparing and filing with the appropriate TAX department (not the Registrar) any fiduciary or estate tax returns required by state or federal law. The P.R. should direct questions about tax matters to the appropriate tax department, not to the Registrar.

(Minnesota) Estate and Fiduciary Tax Division (651) 296-3475
The web site is: www.taxes.state.mn.us
(US) IRS, income and federal estate tax information, 1-800-829-1040 or (651)-312-8082 for the metro area or (218)-626-1624 for the Duluth area or (507)-625-4977 for the Mankato area. The web site is: www.irs.gov

- **Informal Probate: Personal Representative's Statement to Close Estate:** This form is required to close the estate, after the administration has been completed. (No sooner than four months after date of publication of the Notice.) When all claims have been settled, all administrative expenses paid, and all assets, **including real estate title**, have been distributed and transferred to the proper persons, the P.R. may then complete this last form. The P.R. must mail a copy to all distributees and to all creditors or claimants whose claims are not paid or barred, and then file the original with Probate Court.

P-682

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The P.R. is personally liable to the interested parties for damage or loss if the property is distributed incorrectly.

FORMS THAT YOU ARE REQUIRED TO PREPARE UNLESS OTHERWISE NOTED

PROBATE FORMS

PROBATE FORM NUMBERS

Miller-Davis
Forms

Kemske
Forms

IF THE DECEDENT DID NOT LEAVE A WILL (INTESTATE):

- | | | |
|---|-------|-----|
| – Application for Informal Appointment of Personal Representative (Intestate): To start probating an estate, this Application form must be completed and then presented to the Registrar for screening and acceptance. There is a filing fee. You need to check with each county individually as to their fee, as fees vary from county to county. | P-103 | 135 |
| – Nomination of Personal Representative by Person Entitled to Priority: This form is required in MOST estates in order for a proposed P.R. to establish priority for appointment. All heirs of equal priority must sign. This form is prepared by the Applicant and filed together with the Application. | P-005 | 126 |
| – Acceptance of Appointment and Oath by Individual: This form must be completed, notarized, and filed with the Registrar. | P-001 | 201 |
| – Order for Informal Appointment of Personal Representative: Some Registrars will prepare this form. You will need to check with each individual county to see if you are required to provide this form. | P-113 | 145 |

NOTICE REQUIREMENTS:

- | | | |
|---|-------|-----|
| – Notice of Informal Appointment of Personal Representative and Notice to Creditors: Once again, you should check with each individual county to see whether or not you are required to provide this form. | P-123 | 149 |
|---|-------|-----|
- This Notice must be published for two weeks in a legal newspaper. Contact should be made with the Registrar

to see if they will arrange for the publication. If not, it is your responsibility.

- Applicant must also mail either a copy of the Notice or a newspaper clipping of the Notice to all interested persons.

- **Proof of Placing Order for Publication:** Some Registrars accept this form in lieu of the Affidavit of Publication prior to actual printing. The publisher signs this form at the time publication is arranged.

–OR–

- **Affidavit of Publication:** This form is provided by publisher upon completion of the time for publication.

- **Affidavit of Mailing Order or Notice of Hearing:** After mailing the Notice, this affidavit must be completed, notarized and filed with the Registrar. **A copy of what was mailed (the Notice) must be attached to the Affidavit.**

P-015

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Notice to Creditors: Minnesota Statutes were amended in 1989 to provide for mailed notice to creditors. The personal representative must serve notice on all known and identified creditors by mailing a copy of the notice as published together with a supplementary notice requiring the creditor to present the claim within one month after the date of the service of the notice or be forever barred. This mailing is to be made within three months of the first publication. This notice does not have to be made to the creditors who have already filed a claim or to creditors who have already been paid.

Proof of this mailed service IS NOT required to be filed with the Registrar or with the court.

- **Notice to Spouse and Children:** This form is required to be filed in all estates where the decedent left a spouse or any children surviving. A copy of the form must be sent to the spouse and/or children of the decedent. Complete the Affidavit of Mailing at the end of the notice and file this form with the court.

P-016

- **Affidavit of Service of Notice to the Commissioner of Human Services:** This form must be completed and filed with the Probate Court if the decedent and/or their spouse received medical assistance or other assistance from any state or county agency. You must give notice of the probate to the MN Dept of Human Services by sending them a copy of:

98-M

98-M

- Notice to Commissioner of Human Services
- Notice of Informal Probate and Notice to Creditors

99-M

99-M

Copies of what you mailed must be attached to the affidavit of service.

It is also required that you file the above affidavit of service if the decedent's **PROBATE** estate has real estate that is not going to be sold during the probate administration.

- **Letters of General Administration:** After all the preceding has been completed the Registrar will issue Letters, which authorize the P.R. to act. Certified copies of Letters may be purchased from the Court. These are proof of the P.R.'s appointment. The P.R. may NOT sell, encumber, lease or distribute real estate for 30 days from date of issuance of his Letters, by statute.

P-010

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INTERIM AND CLOSING FORMS:

- **Inventory and Appraisal:** Within 6 months from appointment or 9 months from date of death P.R. must mail a copy to the surviving spouse, to all residuary distributees, and to interested persons or creditors who request it. The inventory must list all **probate** assets owned by the decedent, with reasonable detail, and indicate fair market value of each as of date of death, and the type and amount of any encumbrances thereon. Prepare this form as soon as possible after Letters issue to ensure an accurate date of death record. It is good practice to file the original of the Inventory with the Probate Court.
- **Final Account:** Minnesota statute directs that there be a four-month period (starting from the date on the Notice) in which creditors may file claims against the estate. The P.R. should check with Probate Court during the probate administration and again at the end of the four-month period to see if any claims have been filed. P.R. should be careful to avoid incurring any personal liability for unpaid claims.

P-600

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P-605

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After claims have been properly dealt with and the four months have elapsed, the P.R. must prepare the **final account** of decedent's probate assets, showing any increases or decreases in the assets, claims paid, expenses of administration, and the balance of assets on

hand for distribution. The P.R. **must** furnish a copy to every distributee in the estate whose interest is affected thereby. **NOTE:** The Registrar's office cannot assist in the preparation of this form.

After a copy of the final account has been provided to all appropriate parties, the P.R. may distribute the assets to the heirs in the estate.

Tax Returns: The P.R. is responsible for preparing and filing with the appropriate TAX department (not the Registrar) any fiduciary or estate tax returns required by state or federal law. The P.R. should direct questions about tax matters to the appropriate tax department, not to the Registrar.

(Minnesota) Estate and Fiduciary Tax Division, (651) 296-3475 The web site is: www.taxes.state.mn.us
(US) IRS, income and federal estate tax information, 1-800-829-1040 or (651)-312-8082 for the metro area or (218)-626-1624 for the Duluth area or (507)-625-4977 for the Mankato area. The web site is: www.irs.gov

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- **Informal Probate: Personal Representative's Statement to Close Estate:** This form is required to close the estate, after the administration has been completed. (No sooner than four months after date of publication of the Notice.) When all claims have been settled, all administrative expenses paid, and all assets, **including real estate title**, have been distributed and transferred to the proper persons, the P.R. may then complete this last form. The P.R. must mail a copy to all distributees and to all creditors or claimants whose claims are not paid or barred, and then file the original with Probate Court.

The P.R. is personally liable to the interested parties for damage or loss if the property is distributed incorrectly.

IF THE ESTATE ASSETS INCLUDE ANY REAL ESTATE

- **This pamphlet does not indicate which forms should be prepared and recorded to convey real estate title, since different fact situations require different forms, and because the recording of these documents is not done in Probate Court or supervised by the Probate Registrar.**

- **To protect marketable title and to avoid burdensome corrective measures, the sale or distribution of real estate from a decedent's estate should be handled by an attorney experienced in probate real estate conveyances.**

GLOSSARY

Codicil:	A legal instrument that modifies a will.
Creditor:	A person or party to whom a debt is owed.
Devise:	Disposition of property by will.
Devisee:	Person or organization designated by will to receive property.
Distributee:	Person, other than a creditor or a purchaser, who receives property of a decedent from the personal representative.
Estate:	All of the property of the decedent.
Formal Proceedings:	Proceedings conducted before a judge.
Heirs:	Persons entitled to the property of the decedent under law.
Informal Proceedings:	Unsupervised proceedings conducted before the Probate Registrar.
Interested person:	Includes heirs, devisees, children, spouse, creditors, and any others having a property right in or claim to the estate of the decedent.
Intestate:	Estate with no will.
Non-Probate assets:	Assets owned by the decedent not requiring probate to affect transfer of ownership.
Personal Representative (P.R.)	Individual in charge of handling the estate of the decedent.
Probate Assets:	Assets owned SOLELY by the decedent.
Registrar:	The official of the court who administers informal probate.
Separate writing:	Documents or lists, as referenced in a will, that dispose of <u>only tangible personal property</u> .
Testate:	Estate with a will.
Will:	A written instrument, legally executed, by which a person makes disposition of his or her estate to take effect after death.

STATE OF MINNESOTA

COUNTY OF

JUDICIAL DISTRICT
DISTRICT COURT
PROBATE COURT DIVISION

In Re: Estate of

Court File No.: _____

Deceased

I, _____, being appointed
personal representative in the above-named estate, do hereby:

1. acknowledge receipt of the pamphlet entitled "**Guide to Informal Probate**";
2. acknowledge that I am requesting an informal probate of the estate, unsupervised by the Court;
3. acknowledge that by accepting appointment as personal representative I am responsible for the complete administration of the estate, for the filing of all required documents in a timely manner, for the payment of all valid claims against the estate, for the proper distribution of all assets, including real estate title, if any, and for completing all requirements to close the estate; and
4. acknowledge also that I am aware that neither the Probate Register nor Court personnel can act as my legal counsel, and that if I need legal assistance, clarification, interpretation, or advice to complete the informal administration of this estate or to convert it to a supervised administration that I should consult an attorney.

Dated: _____

Personal Representative